

REMARKS

This is in response to the Office Action of December 17, 2004

SPECIFICATION

The disclosure has been objected to because of certain informalities. These informalities have been corrected and this objection should be withdrawn.

CLAIM REJECTIONS—35 U.S.C. §112

Claims 1-8 have been rejected under 35 U.S.C. 112 as being indefinite. Applicant has complied with the Examiner's comments and corrections have been made to overcome the rejection.

CLAIM REJECTION—35 U.S.C. §103

Claims 1-8 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Sato 6,128,996. Sato is said to disclose almost every structural limitation of the claimed invention but lacks a device being a one-piece molded unit, the triangular guide members and a gripping means claimed by applicant.

Applicant has amended Claim 1 to note that the slot extends below the base and the side members have a substantially rectangular configuration that provides a safety feature by keeping the fingers away from the knife. In addition, the bagel is gripped in Sato through a cutout in the side members, and in applicant's invention, the side members have tapered, ribbed gripping surfaces on the inner surfaces to securingly engage a bagel; and the ribbed gripping means on the outer surface facilitates bringing the side members into engagement with the bagel. In addition, the knife slots extend up higher than the flexible side members to facilitate placement of the knife before grasping the side members and squeezing them together to slice the bagel. These features do not appear in Sato. Furthermore, the flexible side members are angled outwardly

from the base in order to facilitate entry and centering of the bagel, and to allow any size bagel to fit in the holder.

Applicant's device is a one-piece molded plastic unit, which is not the case in Sato. In Sato, the plates are mounted on a base in a vertical orientation. The vertical plates are connected and move with regard to the base via side plates. There is no way that Sato's complex design could have been made of a one-piece molded construction. The Examiner has cited the simplistic Davidson patent as an example of one-piece construction. However, Davidson and Sato are incompatible developments and the fact that Davidson may be a one-piece construction could not be incorporated into the complicated Sato design. Furthermore, applicant's structure differs substantially and patentably from the Sato structure and yet as noted in Claim 2, is a one-piece molded plastic unit.

The guide members cited in Claim 3 extend downwardly from the end portion to the base. The fact that the Examiner cites that it is old and well known to have guide members is irrelevant to the reference to applicant's unique design. The other dependent claims add various patentable features.

While it is admitted that Sato does not teach or suggest gripping means, it is a substantial leap to contend that McLeod and Thompson have gripping means and therefore applicant's inner and out gripping means in a patentable Claim 1 structure, are old and well known.


The side members in applicant's design are cantilevered upwardly and are pivotable about the lower edge. Nothing of this type is shown in Sato or any combination of cited references.

CONCLUSION

Applicant has amended independent Claim 1 to further distinguish over the cited prior art particularly Sato. The amended independent Claim 1 is most certainly patentable over the prior art of record and the dependant claims 2-8 add further unique limitations to the main claim.

Therefore, reconsideration and allowance of these claims is respectfully requested.

RESPECTFULLY SUBMITTED,


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